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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,852	12/04/2001	David M. Smart	1935-1-3	5227

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/011,852

Applicant(s)

SMART, DAVID M.

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12-19,30-32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-19 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-10,31,32 and 34-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the third Office Action for serial number 10/011,852, Collapsible Support with Arms and Legs and Method for Using, filed on December 4, 2002. Claims 1-10, 12-19, 30-32, and 34-37 are pending.

Claim Objections

Claim 34 is objected to because of the following informalities: on line 1, "wherein" should be --further comprising-- and on line 2 "includes" should be --by--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 1, the instant specification and drawings only teach the biasing member (21) biasing the arms and legs to the retracted position. Therefore, the language of claim 1 regarding the bias of the arms and legs toward an extended position is not supported or taught by the original description.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31, 32, 34, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31 recites the limitation "the actuating member" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 32, line 2 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a moving arm ring" and "a moving leg ring" in claim 32, line 2 is intended to refer to "an arm ring" and "a leg ring" in claim 30, line 2.

Claim 34 recites the limitation "the actuating member" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,067,609 to Hrabak. Regarding claims 1-10 and 35, Hrabak discloses an extendable and retractable apparatus comprising: a body (shown in Fig. 1 generally) including a longitudinal axis; a plurality of arms (laterally extending members parallel to d^1 and d^2) attached to the body and extendable to an extended position that is

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perpendicular to the longitudinal axis by an arm attachment assembly (d^1 , d^2); a plurality of legs (B) attached to the body and extendable to an extended position by a leg attachment assembly (B^1 , b^1), wherein the extended position includes the legs being at an acute angle relative to the longitudinal axis of the body; a biasing member (C, C^2) linked to the arms and legs and operable to simultaneously move the arms and legs and further including a locking mechanism (c, joint between C and C^2 , and joint between C^2 and A^2 retain the arms and legs in the extended position when c^1 is in the fully extended position shown in Fig. 1) to bias and retain the arms and legs in the extended position; a locking mechanism (b^1) operable to retain the arms and legs in the retracted position; and an actuating member (c^1) operable to move the arms and legs, wherein the arms and legs are retractable to a position substantially parallel to the longitudinal axis of the body.

Allowable Subject Matter

Claims 12-19 and 30 are allowed.

Claims 31, 32, 34, 36 and 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: regarding claim 30, although the prior art of record discloses many of the limitations in the claim, it fails to further teach or suggest moving the arm ring and leg ring in the same direction to simultaneously extend the arms and legs to the extended position.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claims 1-10, 30, 31, and 34-37 have been considered but are not persuasive.

Regarding applicant's argument that Hrabak does not teach a biasing member that biases the arms and legs in either an extended or retracted position, examiner respectfully disagrees. The device of Hrabak does provide a bias (defined by Webster's Dictionary as "to influence in a particular, typically unfair direction") of the legs and arms in the extended position shown in Fig. 1 as the tension in the joints of the links C and C² retain the arms and legs in the extended position.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: DE 19647456 to Matthias discloses an adjustable and foldable stand.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
8/28/03


LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER